

AMENDED IN ASSEMBLY JUNE 1, 2007

AMENDED IN ASSEMBLY APRIL 19, 2007

AMENDED IN ASSEMBLY APRIL 16, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 1130

Introduced by Assembly Member Laird

February 23, 2007

An act to amend Sections 25270.2, 25270.3, 25270.6, 25270.8, 25270.12, 25270.13, 25404, and 25404.5 of, to add Section 25270.4.5 to, to repeal Sections 25270.1, 25270.7, and 25270.10 of, to repeal and add Sections 25270, 25270.4, 25270.5, and 25270.9 of, and to repeal, add, and repeal Section 25270.11 of, the Health and Safety Code, relating to aboveground storage tanks, ~~and making an appropriation therefor.~~

LEGISLATIVE COUNSEL'S DIGEST

AB 1130, as amended, Laird. Aboveground storage tanks.

(1) Existing law requires the Secretary for Environmental Protection to implement a unified hazardous waste and hazardous materials management regulatory program. A city or local agency that meets specified requirements is authorized to apply to the secretary to implement the unified program, and every county is required to apply to the secretary to be certified to implement the unified program.

The Aboveground Petroleum Storage Act (*Act*) defines, for purposes of the act, a “storage tank” as any aboveground tank or container used for the storage of petroleum, except as specified. Existing law requires the State Water Resources Control Board and the California regional water quality control boards to administer the act with regard to a tank

facility that is subject to specified federal regulations and requires a certified unified program agency to enforce the requirements of the act regarding a spill prevention control and countermeasure plan. Existing law imposes specified inspection and monitoring requirements upon the board and the regional boards with regard to these tanks and requires a tank facility owner or operator to file a storage statement with the board. Existing law establishes the Environmental Protection Trust Fund in the State Treasury and provides that the money in the fund is available for expenditure by the board, upon appropriation by the Legislature, for specified purposes.

This bill would instead require the Unified Program Agency (UPA) to implement that act, and would make conforming changes.

The bill would define the term “aboveground storage tank” and would revise the types of storage tanks subject to the act. A storage tank at a tank facility subject to specified federal regulations would be required to prepare a spill prevention control and countermeasure plan and a tank facility located on a farm, nursery, logging site, or construction site that is less than a specified capacity would be required to be subject to inspections and secondary containment requirements.

The bill would require the UPA to inspect, at least once every 3 years, each storage tank within its jurisdiction that has a storage capacity of 10,000 gallons or more of petroleum, except as specified. The owner or operator of a tank facility would be required to file an annual tank facility statement with the local agency, accompanied by a fee established by the UPA.

The board, the regional board, and the UPA would be required to oversee the cleanup or abatement efforts, or to cause cleanup or abatement efforts, with regard to a release from a storage tank at a tank facility.

Any expenses recovered by the board or a regional board in overseeing, or contracting for, a cleanup or abatement would be required to be deposited in the ~~State Water Pollution Cleanup and Abatement Account~~ *Waste Discharge Permit Fund*, for expenditure by the board, ~~as specified, thereby making an appropriation upon appropriation by the Legislature, to assist the regional boards and other public agencies in cleaning up or abating the effects of waste on water and other specified purposes. The bill would require the deposited money to be separately accounted for.~~

The bill would impose a state-mandated local program by imposing new duties upon local agencies with regard to the regulation of aboveground storage tanks.

The bill would ~~appropriate~~ *authorize the expenditure of* a portion of the money in the Environmental Protection Trust Fund, as of January 1, 2008, ~~upon appropriation by the Legislature~~, in an amount determined by the Secretary of Environmental Protection in consultation with the UPAs, to a training account established and maintained by the secretary to be used for purposes of training UPA personnel in the ~~bill's~~ requirements of ~~this chapter~~ *the act*, and would ~~appropriate~~ *authorize the expenditure of* all remaining funds to the UPAs to implement the ~~bill's requirements, thereby making an appropriation act~~. Any funds remaining in the training account established by the secretary, as of June 1, 2011, ~~upon appropriation by the Legislature~~ would be ~~appropriated to~~ *authorized to be expended by* the UPAs to implement the ~~bill's requirements, thereby making an appropriation act~~. The Environmental Protection Trust Fund and the training account would be inoperative as of July 1, 2011, and would be repealed as of January 1, 2012.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that no reimbursement is required by this act for a specified reason.

Vote: $\frac{2}{3}$ -majority. Appropriation: ~~yes-no~~. Fiscal committee: yes. State-mandated local program: yes.

The people of the State of California do enact as follows:

- 1 SECTION 1. Section 25270 of the Health and Safety Code is
- 2 repealed.
- 3 SEC. 2. Section 25270 is added to the Health and Safety Code,
- 4 to read:
- 5 25270. This chapter shall be known and may be cited as the
- 6 Aboveground Petroleum Storage Act.
- 7 SEC. 3. Section 25270.1 of the Health and Safety Code is
- 8 repealed.
- 9 SEC. 4. Section 25270.2 of the Health and Safety Code is
- 10 amended to read:

25270.2. For purposes of this chapter, the following definitions apply:

(a) “Aboveground storage tank” or “storage tank” means a tank that has the capacity to store 55 gallons or more of petroleum and that is substantially or totally above the surface of the ground. “Aboveground storage tank” does not include any of the following:

(1) A pressure vessel or boiler that is subject to Part 6 (commencing with Section 7620) of Division 5 of the Labor Code.

(2) A tank containing hazardous waste, as defined in subdivision (g) of Section 25316, if the Department of Toxic Substances Control has issued the person owning or operating the tank a hazardous waste facilities permit for the storage tank.

(3) An aboveground oil production tank that is subject to Section 3106 of the Public Resources Code.

(4) Oil-filled electrical equipment, including, but not limited to, transformers, circuit breakers, or capacitors, if the oil-filled electrical equipment meets either of the following conditions:

(A) The equipment contains less than 10,000 gallons of dielectric fluid.

(B) The equipment contains 10,000 gallons or more of dielectric fluid with PCB levels less than 50 parts per million, appropriate containment or diversionary structures or equipment are employed to prevent discharged oil from reaching a navigable water course, and the electrical equipment is visually inspected in accordance with the usual routine maintenance procedures of the owner or operator.

(5) A tank regulated as an underground storage tank under Chapter 6.7 (commencing with Section 25280) and Chapter 16 (commencing with Section 2610) of Division 3 of Title 23 of the California Code of Regulations.

(6) Any transportation-related tank facility, subject to the authority and control of the United States Department of Transportation, as defined in the Memorandum of Understanding between the Secretary of Transportation and the Administrator of the United States Environmental Protection Agency, dated November 24, 1971, set forth in Appendix A to Part 112 (commencing with Section 112.1) of Subchapter D of Chapter I of Title 40 of the Code of Federal Regulations.

(b) “Board” means the State Water Resources Control Board.

1 (c) (1) “Certified Unified Program Agency” or “CUPA” means
2 the agency certified by the Secretary for Environmental Protection
3 to implement the unified program specified in Chapter 6.11
4 (commencing with Section 25404) within a jurisdiction.

5 (2) “Participating Agency” or “PA” means an agency that has
6 a written agreement with the CUPA pursuant to subdivision (d)
7 of Section 25404.3, and is approved by the secretary, to implement
8 and enforce the unified program element specified in paragraph
9 (2) of subdivision (c) of Section 25404, in accordance with Sections
10 25404.1 and 25404.2.

11 (3) (A) “Unified Program Agency” or “UPA” means the CUPA,
12 or its participating agencies to the extent that each PA has been
13 designated by the CUPA, pursuant to a written agreement, to
14 implement and enforce the unified program element specified in
15 paragraph (2) of subdivision (c) of Section 25404. The UPAs have
16 the responsibility and authority, to the extent provided by this
17 chapter and Sections 25404.1 and 25404.2, to implement and
18 enforce the requirements of this chapter.

19 (B) After a CUPA has been certified by the secretary, the unified
20 program agency shall be the only agency authorized to enforce the
21 requirements of this chapter..

22 (C) This paragraph shall not be construed to limit the authority
23 or responsibility granted to the board and the regional boards by
24 this chapter.

25 (d) “Operator” means the person responsible for the overall
26 operation of a tank facility.

27 (e) “Owner” means the person who owns the tank facility or
28 part of the tank facility.

29 (f) “Person” means an individual, trust, firm, joint stock
30 company, corporation, including a government corporation,
31 partnership, limited liability company, or association. “Person”
32 also includes any city, county, district, the University of California,
33 the California State University, the state, any department or agency
34 thereof, and the United States, to the extent authorized by federal
35 law.

36 (g) “Petroleum” means crude oil, or any fraction thereof, which
37 is liquid at 60 degrees Fahrenheit temperature and 14.7 pounds
38 per square inch absolute pressure.

39 (h) “Regional board” means a California regional water quality
40 control board.

1 (i) "Release" means any spilling, leaking, pumping, pouring,
2 emitting, emptying, discharging, escaping, leaching, or disposing
3 into the environment.

4 (j) "Secretary" means the Secretary for Environmental
5 Protection.

6 (k) "Storage" or "store" means the containment, handling, or
7 treatment of petroleum, for any period of time, including on a
8 temporary basis.

9 (l) "Storage capacity" means the aggregate capacity of all
10 aboveground tanks at a tank facility.

11 (m) "Tank facility" means any one, or combination of,
12 aboveground storage tanks, including any piping that is integral
13 to the tank, that contains petroleum and that is used by a single
14 business entity at a single location or site. For purposes of this
15 chapter, a pipe is integrally related to an aboveground storage tank
16 if the pipe is connected to the tank and meets any of the following:

17 (1) The pipe is within the dike or containment area.

18 (2) The pipe is between the containment area and the first flange
19 or valve outside the containment area.

20 (3) The pipe is connected to the first flange or valve on the
21 exterior of the tank, if state or federal law does not require a
22 containment area.

23 SEC. 5. Section 25270.3 of the Health and Safety Code is
24 amended to read:

25 25270.3. A tank facility is subject to this chapter if
26 the tank facility is subject to the oil pollution prevention
27 regulations specified in Part 112 (commencing with Section 112.1)
28 of Subchapter D of Chapter I of Title 40 of the Code of Federal
29 Regulations or the tank facility has a storage capacity of 1,320
30 gallons or more of petroleum.

31 SEC. 6. Section 25270.4 of the Health and Safety Code is
32 repealed.

33 SEC. 7. Section 25270.4 is added to the Health and Safety
34 Code, to read:

35 25270.4. This chapter shall be implemented by the Unified
36 Program Agency. If there is no UPA, the agency authorized
37 pursuant to subdivision (f) of Section 25404.3 shall be deemed to
38 be the UPA for purposes of this chapter and shall implement this
39 chapter.

1 SEC. 8. Section 25270.4.5 is added to the Health and Safety
2 Code, to read:

3 25270.4.5. (a) Except as provided in subdivision (b), each
4 owner or operator of a storage tank at a tank facility subject to this
5 chapter shall prepare a spill prevention control and countermeasure
6 plan prepared in accordance with Part 112 (commencing with
7 Section 112.1) of Subchapter D of Chapter I of Title 40 of the
8 Code of Federal Regulations. Each owner or operator specified in
9 this subdivision shall conduct periodic inspections of the storage
10 tank to assure compliance with Section 112 (commencing with
11 Section 112.1) of Subchapter D of Chapter I of Title 40 of the
12 Code of Federal Regulations. In implementing the spill prevention
13 control and countermeasure plan, each owner or operator specified
14 in this subdivision shall fully comply with the latest version of the
15 regulations contained in Part 112 (commencing with Section 112.1)
16 of Subchapter D of Chapter I of Title 40 of the Code of Federal
17 Regulations.

18 (b) A tank facility located on a farm, nursery, logging site, or
19 construction site is not subject to subdivision (a) if no storage tank
20 at the location exceeds 20,000 gallons and the cumulative storage
21 capacity of the tank facility does not exceed 100,000 gallons. The
22 owner or operator of a tank facility exempt pursuant to this
23 subdivision shall take the following actions:

24 (1) Conduct a daily visual inspection of any storage tank storing
25 petroleum.

26 (2) Allow the UPA to conduct a periodic inspection of the tank
27 facility.

28 (3) Install a secondary means of containment for the entire
29 contents of the largest storage tank at the tank facility, plus
30 sufficient space for precipitation, if the UPA determines this
31 installation is necessary for the protection of the waters of the state.

32 SEC. 9. Section 25270.5 of the Health and Safety Code is
33 repealed.

34 SEC. 10. Section 25270.5 is added to the Health and Safety
35 Code, to read:

36 25270.5. (a) Except as provided in subdivision (b), at least
37 once every three years, the UPA shall inspect each storage tank
38 or a representative sampling of the storage tanks at each tank
39 facility that has a storage capacity of 10,000 gallons or more of
40 petroleum. The purpose of the inspection shall be to determine

1 whether the owner or operator is in compliance with the spill
2 prevention control and countermeasure plan requirements of this
3 chapter.

4 (b) The UPA may develop an alternative inspection and
5 compliance plan, subject to approval by the secretary.

6 (c) An inspection conducted pursuant to this section does not
7 require the oversight of a professional engineer.

8 SEC. 11. Section 25270.6 of the Health and Safety Code is
9 amended to read:

10 25270.6. (a) On or before January 1, 2009, and on or before
11 January 1 annually thereafter, each owner or operator of a tank
12 facility subject to this chapter shall file with the UPA a tank facility
13 statement that shall identify the name and address of the tank
14 facility, a contact person for the tank facility, the total storage
15 capacity of the tank facility, and the location, size, age, and
16 contents of each storage tank that exceeds 10,000 gallons in
17 capacity and that holds a substance containing at least 5 percent
18 of petroleum. A copy of a statement submitted previously pursuant
19 to this section may be submitted in lieu of a new tank facility
20 statement if no new or used storage tanks have been added to the
21 facility or if no significant modifications have been made. For
22 purposes of this section, a significant modification includes, but
23 is not limited to, altering existing storage tanks or changing spill
24 prevention or containment methods.

25 (b) On or before January 1, 2010, and on or before January 1
26 of each year thereafter, each owner or operator of a tank facility
27 who is required to submit a tank facility statement pursuant to
28 subdivision (a) shall pay a fee to the UPA. The governing body of
29 the UPA shall establish a fee, as part of the single fee system
30 implemented pursuant to Section 25404.5, at a level sufficient to
31 pay the necessary and reasonable costs incurred by the UPA in
32 administering this chapter, including but not limited to, inspections,
33 enforcement, and administrative costs. The UPA may provide for
34 a waiver of these fees when a state or local government agency
35 submits a tank facility statement.

36 SEC. 12. Section 25270.7 of the Health and Safety Code is
37 repealed.

38 SEC. 13. Section 25270.8 of the Health and Safety Code is
39 amended to read:

25270.8. Each owner or operator of a tank facility shall immediately, upon discovery, notify the Office of Emergency Services and the UPA using the appropriate 24-hour emergency number or the 911 number, as established by the UPA, or by the governing body of the UPA, of the occurrence of a spill or other release of one barrel (42 gallons) or more of petroleum that is required to be reported pursuant to subdivision (a) of Section 13272 of the Water Code.

SEC. 14. Section 25270.9 of the Health and Safety Code is repealed.

SEC. 15. Section 25270.9 is added to the Health and Safety Code, to read:

25270.9. (a) The board, the regional board, and the UPA shall oversee cleanup or abatement efforts, or cause cleanup or abatement efforts, of a release from a storage tank at a tank facility. The UPA may refer the oversight or cleanup of a release from a storage tank at a tank facility to a regional board for action, if appropriate, pursuant to Division 7 (commencing with Section 13000) of the Water Code.

(b) The reasonable expenses of the board, the regional board, and the UPA incurred in overseeing, or contracting for, a cleanup or abatement that results from a release at a tank facility is a charge against the owner or operator of the tank facility. Expenses reimbursed to a public agency under this section are a debt of the tank facility owner or operator, and shall be collected in the same manner as in the case of an express or implied obligation under contract.

~~(c) Notwithstanding Article 3 (commencing with Section 13440) of Division 7 of the Water Code, the expenses recovered by the board or a regional board pursuant to this section shall be deposited in the State Water Pollution Cleanup and Abatement Account and may be expended by the board in accordance with Section 13441 of the Water Code.~~

(c) Expenses recovered by the board or a regional board pursuant to this section shall be deposited into the Waste Discharge Permit Fund. These moneys shall be separately accounted for, and shall be expended by the board, upon appropriation by the Legislature, to assist regional boards and other public agencies with authority to clean up waste or abate the effects of the waste,

1 *in cleaning up or abating the effects of the waste on waters of the*
2 *state, or for the purposes authorized in Section 13443.*

3 (d) The expenses recovered by the UPA pursuant to this section
4 shall be deposited in an account maintained by the UPA for the
5 purposes of carrying out this chapter.

6 SEC. 16. Section 25270.10 of the Health and Safety Code is
7 repealed.

8 SEC. 17. Section 25270.11 of the Health and Safety Code is
9 repealed.

10 SEC. 18. Section 25270.11 is added to the Health and Safety
11 Code, to read:

12 25270.11. (a) All money remaining in the Environmental
13 Protection Trust Fund as of January 1, 2008, ~~is hereby appropriated~~
14 ~~for expenditure~~ *may be expended, upon appropriation by the*
15 *Legislature, in the following manner:*

16 (1) A portion of the funds, in an amount determined by the
17 secretary in consultation with the UPAs, to a training account
18 established and maintained by the secretary, to be used for purposes
19 of training UPA personnel in the requirements of this chapter.

20 (2) All remaining funds in the Environmental Protection Trust
21 Fund, shall be allocated to the UPAs, in accordance with a formula
22 and process determined by the secretary in consultation with the
23 UPAs. The UPAs shall expend those funds for the purpose of
24 implementing this chapter.

25 (b) All moneys remaining in the training account established
26 pursuant to paragraph (1) of subdivision (a), as of June 1, 2011,
27 ~~shall be allocated~~ *may be expended* pursuant to paragraph (2) of
28 subdivision (a), *upon appropriation by the Legislature.*

29 (c) This section shall become inoperative on July 1, 2011, and,
30 as of January 1, 2012, is repealed, unless a later enacted statute,
31 that becomes operative on or before January 1, 2012, deletes or
32 extends the dates on which it becomes inoperative and is repealed.

33 SEC. 19. Section 25270.12 of the Health and Safety Code is
34 amended to read:

35 25270.12. (a) Any owner or operator of a tank facility who
36 fails to prepare a spill prevention control and countermeasure plan
37 in compliance with subdivision (a) of Section 25270.4.5, to file a
38 tank facility statement pursuant to subdivision (a) of Section
39 25270.6, to submit the fee required by subdivision (b) of Section
40 25270.6, to report spills as required by Section 25270.8, or

otherwise to comply with the requirements of this chapter, is subject to a civil penalty of not more than five thousand dollars (\$5,000) for each day on which the violation continues. If the owner or operator commits a second or subsequent violation, a civil penalty of not more than ten thousand dollars (\$10,000) for each day on which the violation continues may be imposed.

(b) (1) The civil penalties provided by this section may be assessed and recovered in a civil action brought by the city attorney or district attorney on behalf of the UPA.

(2) Fifty percent of all penalties assessed and recovered in a civil action brought on behalf of a UPA pursuant to this subdivision shall be deposited into a unified program account established by the UPA for the purpose of carrying out the functions of the unified program and 50 percent shall be paid to the office of the city attorney or district attorney, whoever brought that action.

(c) (1) The civil penalties provided in this section may be assessed and recovered in a civil action brought by the Attorney General on behalf of the board or a regional board, or on behalf of the people of the State of California.

(2) All penalties assessed and recovered in a civil action brought pursuant to this subdivision shall be deposited in the ~~State Water Pollution Cleanup and Abatement Account~~ for expenditure by the ~~board in accordance with Section 13441 of the Water Code. Waste Discharge Permit Fund. These moneys shall be separately accounted for, and shall be expended by the board, upon appropriation by the Legislature, to assist regional boards and other public agencies with authority to clean up waste or abate the effects of the waste, in cleaning up or abating the effects of the waste on waters of the state, or for the purposes authorized in Section 13443.~~

(d) The city attorney, district attorney, or the Attorney General may seek to enjoin, in any court of competent jurisdiction, any person believed to be in violation of this chapter.

(e) The penalties specified in this section are in addition to any other penalties provided by law.

SEC. 20. Section 25270.13 of the Health and Safety Code is amended to read:

25270.13. (a) This chapter does not preempt local storage tank ordinances, in effect as of August 16, 1989, that meet or exceed the standards prescribed by this chapter.

(b) This chapter does not preempt the authority granted to the board and the regional boards under the Porter Cologne Water Quality Control Act (Division 7 (commencing with Section 13000) of the Water Code).

SEC. 21. Section 25404 of the Health and Safety Code is amended to read:

25404. (a) For purposes of this chapter, the following terms shall have the following meanings:

(1) (A) “Certified Unified Program Agency” or “CUPA” means the agency certified by the secretary to implement the unified program specified in this chapter within a jurisdiction.

(B) “Participating Agency” or “PA” means a state or local agency that has a written agreement with the CUPA pursuant to subdivision (d) of Section 25404.3, and is approved by the secretary, to implement or enforce one or more of the unified program elements specified in subdivision (c), in accordance with Sections 25404.1 and 25404.2.

(C) “Unified Program Agency” or “UPA” means the CUPA, or its participating agencies to the extent each PA has been designated by the CUPA, pursuant to a written agreement, to implement or enforce a particular unified program element specified in subdivision (c). The UPAs have the responsibility and authority to implement and enforce the requirements listed in subdivision (c), and the regulations adopted to implement the requirements listed in subdivision (c), to the extent provided by Chapter 6.5 (commencing with Section 25100), Chapter 6.67 (commencing with Section 25270), Chapter 6.7 (commencing with Section 25280), Chapter 6.95 (commencing with Section 25500), and Sections 25404.1 and 25404.2. After a CUPA has been certified by the secretary, the unified program agencies and the state agencies carrying out responsibilities under this chapter shall be the only agencies authorized to enforce the requirements listed in subdivision (c) within the jurisdiction of the CUPA.

(2) “Department” means the Department of Toxic Substances Control.

(3) “Minor violation” means the failure of a person to comply with any requirement or condition of any applicable law, regulation, permit, information request, order, variance, or other requirement, whether procedural or substantive, of the unified program that the UPA is authorized to implement or enforce

1 pursuant to this chapter, and that does not otherwise include any
2 of the following:

3 (A) A violation that results in injury to persons or property, or
4 that presents a significant threat to human health or the
5 environment.

6 (B) A knowing, willful, or intentional violation.

7 (C) A violation that is a chronic violation, or that is committed
8 by a recalcitrant violator. In determining whether a violation is
9 chronic or a violator is recalcitrant, the UPA shall consider whether
10 there is evidence indicating that the violator has engaged in a
11 pattern of neglect or disregard with respect to applicable regulatory
12 requirements.

13 (D) A violation that results in an emergency response from a
14 public safety agency.

15 (E) A violation that enables the violator to benefit economically
16 from the noncompliance, either by reduced costs or competitive
17 advantage.

18 (F) A class I violation as provided in Section 25117.6.

19 (G) A class II violation committed by a chronic or a recalcitrant
20 violator, as provided in Section 25117.6.

21 (H) A violation that hinders the ability of the UPA to determine
22 compliance with any other applicable local, state, or federal rule,
23 regulation, information request, order, variance, permit, or other
24 requirement.

25 (4) “Secretary” means the Secretary for Environmental
26 Protection.

27 (5) “Unified program facility” means all contiguous land and
28 structures, other appurtenances, and improvements on the land
29 that are subject to the requirements listed in subdivision (c).

30 (6) “Unified program facility permit” means a permit issued
31 pursuant to this chapter. For the purposes of this chapter, a unified
32 program facility permit encompasses the permitting requirements
33 of Section 25284, and any permit or authorization requirements
34 under any local ordinance or regulation relating to the generation
35 or handling of hazardous waste or hazardous materials, but does
36 not encompass the permitting requirements of a local ordinance
37 that incorporates provisions of the Uniform Fire Code or the
38 Uniform Building Code.

39 (b) The secretary shall adopt implementing regulations and
40 implement a unified hazardous waste and hazardous materials

1 management regulatory program, which shall be known as the
2 unified program, after holding an appropriate number of public
3 hearings throughout the state. The unified program shall be
4 developed in close consultation with the director, the Director of
5 the Office of Emergency Services, the State Fire Marshal, the
6 executive officers and chairpersons of the State Water Resources
7 Control Board and the California regional water quality control
8 boards, the local health officers, local fire services, and other
9 appropriate officers of interested local agencies, and affected
10 businesses and interested members of the public, including
11 environmental organizations.

12 (c) The unified program shall consolidate the administration of
13 the following requirements, and shall, to the maximum extent
14 feasible within statutory constraints, ensure the coordination and
15 consistency of any regulations adopted pursuant to those
16 requirements:

17 (1) (A) Except as provided in subparagraphs (B) and (C), the
18 requirements of Chapter 6.5 (commencing with Section 25100),
19 and the regulations adopted by the department pursuant thereto,
20 are applicable to all of the following:

21 (i) Hazardous waste generators, persons operating pursuant to
22 a permit-by-rule, conditional authorization, or conditional
23 exemption, pursuant to Chapter 6.5 (commencing with Section
24 25100) or the regulations adopted by the department.

25 (ii) Persons managing perchlorate materials.

26 (iii) Persons subject to Article 10.1 (commencing with Section
27 25211) of Chapter 6.5.

28 (B) The unified program shall not include the requirements of
29 paragraph (3) of subdivision (c) of Section 25200.3, the
30 requirements of Sections 25200.10 and 25200.14, and the authority
31 to issue an order under Sections 25187 and 25187.1, with regard
32 to those portions of a unified program facility that are subject to
33 one of the following:

34 (i) A corrective action order issued by the department pursuant
35 to Section 25187.

36 (ii) An order issued by the department pursuant to Chapter 6.8
37 (commencing with Section 25300) or Chapter 6.85 (commencing
38 with Section 25396).

1 (iii) A remedial action plan approved pursuant to Chapter 6.8
2 (commencing with Section 25300) or Chapter 6.85 (commencing
3 with Section 25396).

4 (iv) A cleanup and abatement order issued by a California
5 regional water quality control board pursuant to Section 13304 of
6 the Water Code, to the extent that the cleanup and abatement order
7 addresses the requirements of the applicable section or sections
8 listed in this subparagraph.

9 (v) Corrective action required under subsection (u) of Section
10 6924 of Title 42 of the United States Code or subsection (h) of
11 Section 6928 of Title 42 of the United States Code.

12 (vi) An environmental assessment pursuant to Section 25200.14
13 or a corrective action pursuant to Section 25200.10 or paragraph
14 (3) of subdivision (c) of Section 25200.3, that is being overseen
15 by the department.

16 (C) The unified program shall not include the requirements of
17 Chapter 6.5 (commencing with Section 25100), and the regulations
18 adopted by the department pursuant thereto, applicable to persons
19 operating transportable treatment units, except that any required
20 notice regarding transportable treatment units shall also be provided
21 to the CUPAs.

22 (2) The requirements of Chapter 6.67 (commencing with Section
23 25270) concerning aboveground storage tanks.

24 (3) (A) Except as provided in subparagraphs (B) and (C), the
25 requirements of Chapter 6.7 (commencing with Section 25280)
26 concerning underground storage tanks and the requirements of any
27 underground storage tank ordinance adopted by a city or county.

28 (B) The unified program may not include the responsibilities
29 assigned to the State Water Resources Control Board pursuant to
30 Section 25297.1.

31 (C) The unified program may not include the corrective action
32 requirements of Sections 25296.10 to 25296.40, inclusive.

33 (4) The requirements of Article 1 (commencing with Section
34 25500) of Chapter 6.95 concerning hazardous material release
35 response plans and inventories.

36 (5) The requirements of Article 2 (commencing with Section
37 25531) of Chapter 6.95, concerning the accidental release
38 prevention program.

39 (6) The requirements of subdivisions (b) and (c) of Section
40 80.103 of the Uniform Fire Code, as adopted by the State Fire

1 Marshal pursuant to Section 13143.9 concerning hazardous material
2 management plans and inventories.

3 (d) To the maximum extent feasible within statutory constraints,
4 the secretary shall consolidate, coordinate, and make consistent
5 these requirements of the unified program with other requirements
6 imposed by other federal, state, regional, or local agencies upon
7 facilities regulated by the unified program.

8 (e) (1) The secretary shall establish standards applicable to
9 CUPAs, participating agencies, state agencies, and businesses
10 specifying the data to be collected and submitted by unified
11 program agencies in administering the programs listed in
12 subdivision (c). Those standards shall incorporate any standard
13 developed under Section 25503.3.

14 (2) The secretary shall establish an electronic geographic
15 information management system capable of receiving all data
16 collected by the unified program agencies pursuant to this
17 subdivision and Section 25504.1. The secretary shall make all
18 nonconfidential data available on the Internet.

19 (3) (A) As funding becomes available, the secretary shall
20 establish, consistent with paragraph (2), and thereafter maintain,
21 a statewide database.

22 (B) The secretary, or one or more of the boards, departments,
23 or offices within the California Environmental Protection Agency,
24 shall seek available federal funding for purposes of implementing
25 this subdivision.

26 (4) Once the statewide database is established, the secretary
27 shall work with the CUPAs to develop a phased-in schedule for
28 the electronic collection and submittal of information to be included
29 in the statewide database, giving first priority to information
30 relating to those chemicals determined by the secretary to be of
31 greatest concern. The secretary, in making this determination shall
32 consult with the CUPAs, the Office of Emergency Services, the
33 State Fire Marshal, and the boards, departments, and offices within
34 the California Environmental Protection Agency. The information
35 initially included in the statewide database shall include, but is not
36 limited to, the hazardous materials inventory information required
37 to be submitted pursuant to Section 25504.1 for perchlorate
38 materials.

39 SEC. 22. Section 25404.5 of the Health and Safety Code is
40 amended to read:

1 25404.5. (a) (1) Each certified unified program agency shall
2 institute a single fee system, which shall replace the fees levied
3 pursuant to Sections 25201.14 and 25205.14, except for
4 transportable treatment units permitted under Section 25200.2,
5 and which shall also replace any fees levied by a local agency
6 pursuant to Sections 25143.10, 25270.6, 25287, 25513, and
7 25535.5, or any other fee levied by a local agency specifically to
8 fund the implementation of the provisions specified in subdivision
9 (c) of Section 25404. Notwithstanding Sections 25143.10, 25270.6,
10 25201.14, 25205.14, 25287, 25513, and 25535.5, a person who
11 complies with the certified unified program agency's "single fee
12 system" fee shall not be required to pay any fee levied pursuant
13 to those sections, except for transportable treatment units permitted
14 under Section 25200.2.

15 (2) (A) The governing body of the local certified unified
16 program agency shall establish the amount to be paid by each
17 person regulated by the unified program under the single fee system
18 at a level sufficient to pay the necessary and reasonable costs
19 incurred by the certified unified program agency and by any
20 participating agency pursuant to the requirements of subparagraph
21 (E) of paragraph (1) of subdivision (d) of Section 25404.3.

22 (B) The secretary shall establish the amount to be paid when
23 the unified program agency is a state agency.

24 (3) The fee system may also be designed to recover the
25 necessary and reasonable costs incurred by the certified unified
26 program agency, or a participating agency pursuant to the
27 requirements of subparagraph (E) of paragraph (1) of subdivision
28 (d) of Section 25404.3, in administering provisions other than
29 those specified in subdivision (c) of Section 25404, if the
30 implementation and enforcement of those provisions has been
31 incorporated as part of the unified program by the certified unified
32 program agency pursuant to subdivision (b) of Section 25404.2,
33 and if the single fee system replaces any fees levied as of January
34 1, 1994, to fund the implementation of those additional provisions.

35 (4) The amount to be paid by a person regulated by the unified
36 program may be adjusted to account for the differing costs of
37 administering the unified program with respect to that person's
38 regulated activities.

39 (b) (1) Except as provided in subdivision (d), the single fee
40 system instituted by each certified unified program agency shall

1 include an assessment on each person regulated by the unified
2 program of a surcharge, the amount of which shall be determined
3 by the secretary annually, to cover the necessary and reasonable
4 costs of the state agencies in carrying out their responsibilities
5 under this chapter. The secretary may adjust the amount of the
6 surcharge to be collected by different certified unified program
7 agencies to reflect the different costs incurred by the state agencies
8 in supervising the implementation of the unified program in
9 different jurisdictions, and in supervising the implementation of
10 the unified program in those jurisdictions for which the secretary
11 has waived the assessment of the surcharge pursuant to subdivision
12 (d). The certified unified program agency may itemize the amount
13 of the surcharge on any bill, invoice, or return that the agency
14 sends to a person regulated by the unified program. Each certified
15 unified program agency shall transmit all surcharge revenues
16 collected to the secretary on a quarterly basis. The surcharge shall
17 be deposited in the Unified Program Account, which is hereby
18 created in the General Fund and which may be expended, upon
19 appropriation by the Legislature, by state agencies for the purposes
20 of implementing this chapter.

21 (2) On or before January 10, 2001, the secretary shall report to
22 the Legislature on whether the number of persons subject to
23 regulation by the unified program in any county is insufficient to
24 support the reasonable and necessary cost of operating the unified
25 program using only the revenues from the fee. The secretary's
26 report shall consider whether the surcharge required by subdivision
27 (a) should include an assessment to be used to supplement the
28 funding of unified program agencies that have a limited number
29 of entities regulated under the unified program.

30 (c) Each certified unified program agency and the secretary
31 shall, before the institution of the single fee system and the
32 assessment of the surcharge, implement a fee accountability
33 program designed to encourage more efficient and cost-effective
34 operation of the program for which the single fee and surcharge
35 are assessed. The fee accountability programs shall include those
36 elements of the requirements of the plan adopted pursuant to former
37 Section 25206, as it read on January 1, 1995, that the secretary
38 determines are appropriate.

1 (d) The secretary may waive the requirement for a county to
2 assess a surcharge pursuant to subdivision (b), if both of the
3 following conditions apply:

4 (1) The county meets all of the following conditions:

5 (A) The county submits an application to the secretary for
6 certification on or before January 1, 1996, that incorporates all of
7 the requirements of this chapter, and includes the county's request
8 for a waiver of the surcharge, and contains documentation that
9 demonstrates, to the satisfaction of the secretary, both of the
10 following:

11 (i) That the assessment of the surcharge will impose a significant
12 economic burden on most businesses within the county.

13 (ii) That the combined dollar amount of the surcharge and the
14 single fee system to be assessed by the county pursuant to
15 subdivision (a) exceeds the combined dollar amount of all existing
16 fees that are replaced by the single fee system for most businesses
17 within the county.

18 (B) The application for certification, including the information
19 required by subparagraph (A), is determined by the secretary to
20 be complete, on or before April 30, 1996. The secretary, for good
21 cause, may grant an extension of that deadline of up to 90 days.

22 (C) The county is certified by the secretary on or before
23 December 31, 1996.

24 (D) On or before January 1, 1994, the county completed the
25 consolidation of the administration of the hazardous waste
26 generator program, the hazardous materials release response plans
27 and inventories program, and the underground storage tank
28 program, referenced in paragraphs (1), (3), and (4) of subdivision
29 (c) of Section 25404, into a single program within the county's
30 jurisdiction.

31 (E) The county demonstrates that it will consolidate the
32 administration of all programs specified in subdivision (c) of
33 Section 25404, and that it will also consolidate the administration
34 of at least one additional program that regulates hazardous waste,
35 hazardous substances, or hazardous materials, as specified in
36 subdivision (d) of Section 25404.2, other than the programs
37 specified in subdivision (c) of Section 25404, into a single program
38 to be administered by a single agency in the county's jurisdiction
39 at the time that the county's certification by the secretary becomes
40 effective.

1 (2) The secretary makes all of the following findings:

2 (A) The county meets all of the criteria specified in paragraph
3 (1).

4 (B) The assessment of the surcharge would impose a significant
5 economic burden on most businesses within the county.

6 (C) The combined dollar amount of the surcharge and the single
7 fee system to be assessed by the county pursuant to subdivision
8 (a) would exceed the combined dollar amount of all existing fees
9 that are replaced by the single fee system for most businesses
10 within the county.

11 (D) The waiver of the surcharge for those counties applying for
12 and qualifying for a waiver, and the resulting increase in the
13 surcharge for other counties, would not, when considered
14 cumulatively, impose a significant economic burden on businesses
15 in any other county that does not apply for, or does not meet the
16 criteria for, a waiver of the surcharge.

17 (e) The secretary shall review all of the requests for a waiver
18 of the surcharge made pursuant to subdivision (d) simultaneously,
19 so as to adequately assess the cumulative impact of granting the
20 requested waivers on businesses in those counties that have not
21 applied, or do not qualify, for a waiver, and shall grant or deny all
22 requests for a waiver of the surcharge within 30 days from the date
23 that the secretary certifies all counties applying, and qualifying,
24 for a waiver. If the secretary finds that the grant of a waiver of the
25 surcharge for all counties applying and qualifying for the waiver
26 will impose a significant economic burden on businesses in one
27 or more other counties, the secretary shall take either of the
28 following actions:

29 (1) Deny all of the applications for a waiver of the surcharge.

30 (2) Approve only a portion of the waiver requests for counties
31 meeting the criteria set forth in subdivision (d), to the extent that
32 the approved waivers, when taken as a whole, meet the condition
33 specified in subparagraph (D) of paragraph (2) of subdivision (d).
34 In determining which of the counties' waiver requests to grant,
35 the secretary shall consider all of the following factors:

36 (A) The relative degree to which the assessment of the surcharge
37 will impose a significant economic burden on most businesses
38 within each county applying and qualifying for a waiver.

39 (B) The relative degree to which the combined dollar amount
40 of the surcharge and the single fee system to be assessed, pursuant

1 to subdivision (a), by each county applying and qualifying for a
2 waiver exceeds the combined dollar amount of all existing fees
3 that are replaced by the single fee system for most businesses
4 within the county.

5 (C) The relative extent to which each county applying and
6 qualifying for a waiver has incorporated, or will incorporate, upon
7 certification, additional programs pursuant to subdivision (d) of
8 Section 25404.2, into the unified program within the county's
9 jurisdiction.

10 (f) The secretary may, at any time, terminate a county's waiver
11 of the surcharge granted pursuant to subdivisions (d) and (e) if the
12 secretary determines that the criteria specified in subdivision (d)
13 for the grant of a waiver are no longer met.

14 SEC. 23. No reimbursement is required by this act pursuant to
15 Section 6 of Article XIII B of the California Constitution because
16 a local agency or school district has the authority to levy service
17 charges, fees, or assessments sufficient to pay for the program or
18 level of service mandated by this act, within the meaning of Section
19 17556 of the Government Code.